

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-44395 of 2019 (O&M)
DATE OF DECISION : 21.08.2020**

Azad Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG Haryana
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 272 dated 18.07.2019, registered under Section 22-C (Act No.61) of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Civil Lines, Jind.
2. Per FIR, on 18.07.2019, the police party while on patrolling apprehended the petitioner on suspicion as he tried to flee on seeing the police party. Suspecting some narcotic substance in the yellow polythene being carried by him, he was served with notice and as per consent, his search was conducted in presence of a Gazetted Officer. During search, 62 bottles of Onerex syrup containing Codeine Phosphate of 100 mls each were recovered. Drug Controller was called and his opinion was taken and the case was registered.
3. Learned counsel submits that the petitioner is in custody since 18.07.2019. According to him, the petitioner is a licensed chemist running his shop in the name and style of M/s Chahal Medical Store and is having retail drug license, as apparent from Annexure P-2. According to learned counsel the petitioner had purchased the prescribed medicine under the valid bill.

According to learned counsel, the shop of the petitioner is lying sealed since the date of his arrest and the bills of the prescribed medicines are lying in the shop, from where the petitioner was arrested and it has wrongly been claimed that he was arrested while coming on a vehicle. He further submits that investigation is over, challan has been filed, but there is no headway in the trial. Especially in the pandemic scenario, there is no likelihood of trial being concluded in time

4. On the other hand, learned State counsel opposes the bail plea. He submits that as per Act 1Kg of codeine phosphate falls within definition of commercial quantity, whereas in this case recovery is 6.2 kgs much more than commercial quantity. He shows his inability to comment whether the petitioner is a licensed chemist or had validly purchased the prescribed drugs. He does not dispute that the petitioner is in custody since 18.07.2019 and that there is not much progress in the trial.

5. Considering the plea raised by learned counsel for the petitioner that he is an chemist and is holding retail drug licence and had validly purchased the prescribed medicine, which was recovered from his possession and in the light of the fact that the shop is lying sealed, this Court is of the view that an opportunity be given to the petitioner to have access to his shop so as to locate the bills of prescribed medicine in question. Accordingly, it is directed that the concerned Superintendent Jail, where the petitioner is confined, will make arrangements to take the petitioner to his shop and after getting it de-sealed, to get the bills of the medicine in question, recovered from the shop. In all this process, Drugs Inspector/ Drug Controller of the concerned area be joined to de-seal the shop and verify the authenticity of the bills, so recovered. In case the petitioner succeed in substantiating his plea of being genuine chemist having valid bills of purchase of prescribed medicine in question, the petitioner shall be released on bail on his furnishing bail bonds and surety

bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. The copy of report be made available to the petitioner which shall be submitted to the Court below at the time of furnishing of bail bonds. It is however, made clear that in case the petitioner is released on bail pursuant to the report and found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

August 18th 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No